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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG - 1 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter Of:

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RM-8658

HEAR-IT-NOW Petition for Rulemaking

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Section 68.4 of the Commission's Rules

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Hearing Aid-Compatible Telephones

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REPLY COMMENTS OF THE
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA") herewith submits its reply to comments on the above-captioned Petition for Rulemaking by Hear-It-Now ("HIN"). In its prior comments in this docket, PCIA urged the Commission not to consider initiating a rulemaking as requested by HIN. Specifically, PCIA noted that launching a PCS-specific proceeding at this time will only delay the benefits of wireless telecommunications and that the technical and policy issues posed by HIN are not suited for resolution in an inflexible traditional rulemaking proceeding. As discussed below, the record in this proceeding supports allowing the industry to resolve wireless hearing aid compatibility ("HAC") issues without government intervention.

First, the record in this proceeding shows that initiating the requested rulemaking is premature. As noted by the Telecommunications Industry Association, "the HAC standard for [wireless] telephones does not exist."¹ More importantly, however, before initiating an inflexible rulemaking, "the wireless community and hearing aid manufacturers . . . should

¹ TIA Comments at 2.

have an adequate opportunity to fully examine all the issues associated with hearing aid devices and digital equipment.”² The lack of foundation for the requested rulemaking is even more troubling given that the studies relied upon by HIN “are taken out of context and are not fully relevant to PCS system in the U.S.”³ Specifically, USTA notes that “it would be premature for the Commission to amend its rules based on a study that does not necessarily reflect the true nature of signals and/or frequencies, equipment, and technologies as they are deployed in the United States.”⁴ Quite simply, it would be inappropriate to resort to government intervention before allowing the community of hearing impaired individuals and the wireless industry to attempt resolution on a voluntary basis.

Second, the record shows clearly that the wireless industry has been, and continues to be, responsive to wireless HAC issues. A number of parties, for example, noted the efforts of PCIA’s Electromagnetic Compatibility Task Force, and urged allowing the Task Force to complete its agenda prior to attempting to craft regulations on wireless HAC.⁵ Others observed that “[t]he cellular industry . . . is taking steps to identify and address problems of RF compatibility through the creation and support of the University of Oklahoma’s Center for

² Pacific Bell Comments at 6.

³ Ericsson Comments at 4; *see also* BellSouth Comments at 10 (“the foreign studies [relied upon by HIN] are only of little or no help in determining the electromagnetic compatibility of various wireless technologies with hearing aids”); Siemens Comments at 1; Southwestern Bell Comments at 2.

⁴ USTA Comments at 2.

⁵ Cites.

the Study of Wireless Electromagnetic Compatibility,” and “has been working closely with the hearing aid manufacturers to develop a protocol for scientific testing.”⁶ Thus, as TIA concluded, “the industry is responding to the challenges of the new technology in a responsible and expeditious manner,” and “it is premature and counterproductive for the FCC to go forward with regulation on these activities.”⁷

Third, the record demonstrates that initiating a rulemaking to address wireless HAC issues at this stage in the deployment of PCS and other digital systems will severely harm the public’s interest in the availability of new technologies and services. BellSouth, for example, properly observes that “eliminating the hearing-aid compatibility exemption for phones used in connection with commercial mobile systems (1) would delay the availability of PCS, contravening the Commission’s determination that the public interest requires rapid deployment of PCS; (2) would drastically limit, if not eliminate, the availability of digital cellular service, and (3) as a result, would cause an increase in demand for analog cellular service, for which there is insufficient capacity.”⁸ BellSouth concludes that “any action by the Commission that impairs the viability of GSM-based PCS will impose dramatic financial consequences on the provision of wireless services by . . . PCS licensees and will imperil the ability of PCS to succeed in the United States.”⁹

⁶ TIA Comments at 2.

⁷ *Id.* at 3-4.

⁸ BellSouth Comments at 5; *see also* TIA Comments at 4.

⁹ *Id.* at 10.

Fourth, the comments aptly observe that HIN has unfairly and irrationally singled out a particular technology for scrutiny. Ericsson, for example, characterizes the HIN petition as a “non-substantive, factually inaccurate, scurrilous attack[] on GSM technology,” in light of the “numerous other sources of potential interference to hearing aid wearers in today’s digital world.”¹⁰ Other commenters also note that “sources of interference for hearing aids are not limited to any single technology,” and that focusing exclusively on GSM-based systems would be anticompetitive.¹¹

As a final matter, commenters also agreed with PCIA that any issues raised by HIN, to the extent they can be empirically verified, are ill-suited for resolution in a traditional rulemaking. Siemens, for example, concisely points out that “the interference is complex and the solution is complex.”¹² Under the circumstances, allowing the respective industries to develop standards voluntarily for wireless HAC that appropriately balance all policy and technical issues is far preferable than attempting to develop a complete record in the context of an inflexible, adversarial proceeding. PCIA believes that informal, consensus resolution of wireless HAC issues ultimately will result in far more equitable and practical regulations than could be achieved in a traditional rulemaking before the Commission.

Wireless carriers and the community of people with hearing disabilities can and should work together to achieve the common goal of affording all Americans access to needed

¹⁰ Ericsson Comments at 2, 6.

¹¹ TIA Comments at 3; Pacific Bell Comments at 6-7.

¹² Siemens Comments at 2.

wireless services. HIN's petition, however, is premature, based on studies taken out of context, unreasonably focused on a single technology, and anticompetitive. Therefore, PCIA asks the Commission to dismiss the petition and defer consideration of any wireless HAC rulemaking until after industry groups have had the opportunity to evaluate and respond to interference concerns in more flexible, informal processes.

Respectfully submitted,

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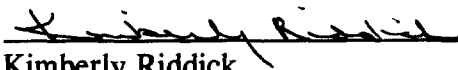
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CERTIFICATE OF SERVICE

I, Kimberly Riddick, hereby certify that on this 1st day of August, 1995, these
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